

Appl. No. 10/006,440
Amdt. dated May 6, 2005
Reply to Office Action of February 9, 2005

REMARKS/ARGUMENTS

Claims 1-60 are pending in the present application. In the Office Action mailed February 9, 2005, the Examiner rejected claims 1-14, 16-34, 36-54, and 56-60 under 35 U.S.C. § 103. The Examiner objected to claims 15, 35, and 55 as being dependent on a rejected base claim, but indicated that these claims would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

Claim 1 has been amended to recite "a pseudo-random scheduler for providing pseudo-random time points." Support for this amendment may be found throughout Applicant's specification, such as on page 4, lines 4-9. Claims 15, 35, and 55 have been rewritten in independent form, including all of the limitations of the base claim and any intervening claims.

Reconsideration is respectfully requested in view of the above amendments to the claims and the following remarks.

A. Specification

The Examiner objected to the title of the patent application. The Examiner indicated that a new title is required which should include "claimed features that differentiate the invention from the Prior Art." Office Action, page 2. In addition, the Examiner indicated that "the title should reflect the gist of or the improvement of the present invention." *Id.*

Applicant is not aware of any requirement that the title should "reflect the gist of or the improvement of the present invention," as indicated by the Examiner. The Patent Rules state the following about the title of a patent application:

The title of the invention may not exceed 500 characters in length and must be as short and specific as possible. Characters that cannot be captured and recorded in the Office's automated information systems may not be reflected in the Office's records in such systems or in documents created by the Office. Unless the title is supplied in an application data sheet (§ 1.76), the title of the invention should appear as a heading on the first page of the specification.

37 CFR § 1.72(a). The MPEP states the following about the title of a patent application:

The title of the invention should be placed at the top of the first page of the

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specification unless it is provided in the application data sheet (see 37 CFR 1.76). The title should be brief but technically accurate and descriptive and should contain fewer than 500 characters. Inasmuch as the words "improved," "improvement of," and "improvement in" are not considered as part of the title of an invention, these words should not be included at the beginning of the title of the invention and will be deleted when the Office enters the title into the Office's computer records, and when any patent issues.

MPEP § 606. Applicants respectfully submit that the current title satisfies the requirements of the Patent Rules and also the MPEP. Accordingly, Applicant respectfully requests that the objection to the title be withdrawn.

B. Rejection of Claims 1-14, 16-34, 36-54, and 56-60 Under 35 U.S.C. § 103(a)

The Examiner rejected claims 1-14, 16-34, 36-54 and 56-60 under 35 U.S.C. § 103(a) based on U.S. Patent No. 6,728,270 to Meggers et al. (hereinafter, "Meggers") in view of Official Notice. This rejection is respectfully traversed.

The M.P.E.P. states that

To establish a *prima facie* case of obviousness, three basic criteria must be met. First, there must be some suggestion or motivation, either in the references themselves or in the knowledge generally available to one of ordinary skill in the art, to modify the reference or to combine reference teachings. Second, there must be a reasonable expectation of success. Finally, the prior art reference (or references when combined) must teach or suggest all the claim limitations. The teaching or suggestion to make the claimed combination and the reasonable expectation of success must both be found in the prior art, and not based on applicant's disclosure.

The initial burden is on the examiner to provide some suggestion of the desirability of doing what the inventor has done. To support the conclusion that the claimed invention is directed to obvious subject matter, either the references must expressly or impliedly suggest the claimed invention or the examiner must present a convincing line of reasoning as to why the artisan would have found the claimed invention to have been obvious in light of the teachings of the references.

M.P.E.P. § 2142.

Applicant respectfully submits that the claims at issue are patentably distinct from Meggers. Meggers does not teach or suggest all of the limitations in these claims.

Meggers relates generally to "the processing of packet data traffic in a communication system, and in particular to scheduling of data packets and admission control." Meggers, col. 1, lines 6-9. Meggers discloses an approach to packet oriented communications systems "to allow a deadline oriented scheduling of data packets carrying real-time data traffic." Id., col. 2, lines 57-59.

Independent claim 1 is directed to an electronic device adapted to communicate with a first device network and adapted to communicate with a second electronic device that is part of a second device network. Independent claim 21 is directed to a computer-readable medium for carrying program data. Independent claim 41 is directed to a method for pseudo-randomly and dynamically scheduling communication periods between electronic devices. Each of these claims recites "providing pseudo-random time points defining a schedule for the first electronic device to communicate with the first device network and with the second electronic device." Meggers does not teach or suggest this limitation.

The Examiner asserts that this limitation is disclosed at column 6, lines 33-34 of Meggers. See Office Action, page 2. Applicants respectfully disagree. This portion of Meggers states that "a payload data packet traffic stream... can be received at a network node like a packet scheduler or an admission controller...." Although Meggers mentions a packet scheduler, Meggers does not teach or suggest that the packet scheduler provides "pseudo-random time points," as recited in the claims at issue. In fact, Applicant cannot find any teaching whatsoever in Meggers about "pseudo random time points."

The Examiner also asserts that the limitation of "providing pseudo-random time points defining a schedule" is disclosed at column 8, lines 37-38 of Meggers. See Office Action, page 2. Applicants respectfully disagree. This portion of Meggers states:

Additionally, the synchronization control packet may contain other parameters, which support the identification of payload data packets as belonging to its control parameters. This might be necessary, as the transmission order of data packets is changed during their transmission from

a traffic source or an intermediate network node to the packet scheduler, to another network node, or in general, to a device or an application, which utilizes the synchronization control parameters.

This portion of Meggers appears to relate to the identification of payload data packets. However, this portion of Meggers does not include any teaching about "providing pseudo-random time points defining a schedule," as recited in the claims at issue.

In addition to the foregoing, claims 1, 21, and 41 each recite "dynamically modifying the schedule to add additional communication bandwidth to at least one communication channel." Meggers does not teach or suggest this limitation.

The Examiner asserts that this limitation is disclosed at column 5, lines 43-44 of Meggers. Applicants respectfully disagree. This portion of Meggers states:

A throughput capability feedback is sent back along the data packet sub-stream's transmission path via a modified admission control packet. Advantageously, this allows intermediate communications system nodes or a traffic source to adapt the traffic to the available throughput capabilities. In this way, rejections of data packets for real-time processing can be avoided to a high extent.

Thus, Meggers discloses a modified admission control packet. However, an admission control packet is not a "schedule for the first electronic device to communicate with the first device network and with the second electronic device," as recited in the claims at issue. Therefore, modifying an admission control packet is not the same as "dynamically modifying the schedule," as recited in the claims at issue.

The Examiner appears to acknowledge that Meggers does not explicitly disclose a "pseudo-random scheduler" or a "dynamic scheduler." See Office Action, page 3. However, the Examiner asserts that "it would have been obvious... to recognize that the teaching of two schedulers... of Megger et al. would have been obviously the two schedulers of the claimed invention while the specific term of pseudo-random and dynamic would have been a matter of calling." Id. Applicants respectfully disagree. Meggers refers to a packet scheduler in general terms, but does not indicate that the packet scheduler performs the step of "providing pseudo-random time points defining a

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schedule," as recited in the claims at issue. In addition, although Meggers refers to modifying an admission control packet, Meggers does not teach or suggest "dynamically modifying [a] schedule," as recited in the claims at issue. If the Examiner maintains the rejection, Applicant respectfully requests that the Examiner specifically point out where Meggers teaches "providing pseudo-random time points defining a schedule" and "dynamically modifying the schedule," as recited in the claims at issue.

In view of the foregoing, Applicant respectfully submits that independent claims 1, 21, and 41 are patentably distinct from Meggers. Accordingly, Applicant respectfully requests that the rejection of these claims be withdrawn.

Claims 2-14 and 16-20 depend either directly or indirectly from claim 1. Claims 22-34 and 36-40 depend either directly or indirectly from claim 21. Claims 42-54 and 56-60 depend either directly or indirectly from claim 41. Accordingly, Applicant respectfully requests that the rejection of claims 2-14, 16-20, 22-34, 36-40, 42-54, and 56-60 be withdrawn for at least the same reasons as those presented above in connection with claims 1, 21, and 41.

C. Allowable Subject Matter

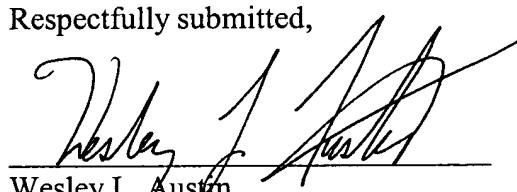
Applicant thanks the Examiner for indicating that claims 15, 35, and 55 contain allowable subject matter. Claims 15, 35, and 55 have been rewritten in independent form, including all of the limitations of the base claim and any intervening claims.

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D. Conclusion

Applicant respectfully asserts that all pending claims are patentably distinct from the cited references, and request that a timely Notice of Allowance be issued in this case. If there are any remaining issues preventing allowance of the pending claims that may be clarified by telephone, the Examiner is requested to call the undersigned.

Respectfully submitted,



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